

# EXHIBIT 63

## Hunters Capital, LLC v. City of Seattle

Mayor Jenny A. Durkan

Page 1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HUNTERS CAPITAL, LLC, et al., )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 20-cv-00983  
 )  
 CITY OF SEATTLE, )  
 )  
 Defendant. )

## VIDEOTAPED VIDEOCONFERENCE DEPOSITION

UPON ORAL EXAMINATION OF

MAYOR JENNY A. DURKAN

Seattle, Washington

(All participants appeared via videoconference.)

DATE TAKEN: DECEMBER 8, 2021  
 REPORTED BY: CINDY M. KOCH, RPR, CRR, CCR #2357

Page 2

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Page 3

DEPOSITION OF JENNY A. DURKAN EXAMINATION INDEX	
EXAMINATION BY:	PAGE
Mr. Weaver	6
EXHIBIT INDEX	
EXHIBITS FOR IDENTIFICATION	PAGE
Exhibit 1 Executive Order 2020-08; SEA_00045264-268	48
Exhibit 2 Email to multiple recipients from Mayor Durkan dated 6/20/2020; SEA_00125617	64
Exhibit 3 Email chain; SEA_00058827	102
Exhibit 4 Email chain and attachments; SEA_00102554-565	110
Exhibit 5 Email to multiple recipients from Mayor Durkan dated 6/21/2020; SEA_00040208	129
Exhibit 6 Spreadsheet containing text messages	132
Exhibit 7 "2 PM Call Notes & Map"; SEA_00002472-474	153
Exhibit 8 "11am Update - E Precinct"; SEA_00028170-171	154
Exhibit 9 Not introduced	
Exhibit 10 Photo of tweets	164
Exhibit 11 Photo of tweet with photo	164
Exhibit 12 Photo of tweet with photo	178
Exhibit 13 Email chain; SEA_00028176-177	189

Page 4

EXHIBIT INDEX (Continuing)	
EXHIBITS FOR IDENTIFICATION	PAGE
Exhibit 14 Email chain; SEA_00140722-728	208
Exhibit 15 Email to Derek Broughten from Mayor Durkan dated 6/19/2020; SEA-PDR_011629 - 631	221

1 (Pages 1 to 4)

Page 61

1 that was an ongoing process in order to get from where  
2 we were in a very dynamic situation to the point where  
3 we actually could be successful in doing what we did on  
4 July 1st.

5 **Q. So when you say you were briefed on where we**  
6 **were, are you talking about the situation on the ground,**  
7 **or are you talking about plans to clear the area out?**

8 A. Those are the same thing. You couldn't clear  
9 the area without addressing what was happening on the  
10 ground. And I think it was pretty clear that in  
11 weighing all of these public interests, that, you know,  
12 Chief Best would be the best person to tell you this,  
13 but it was their assessment at the time that it would  
14 not be successful for an operation to occur that Seattle  
15 Police Department would be the front line for, because  
16 every time Seattle police would respond in and around  
17 that area, it could escalate because these were protests  
18 against police action.

19 And so we were using all of the other actions  
20 that the City departments were doing to de-escalate the  
21 situation, to try to get it calmed down, and then to  
22 reduce the profile of it enough that we actually could  
23 have a successful operation to be led by the Seattle  
24 Police Department.

25 The department -- the operation itself was very

Page 62

1 complex and required, you know, I think, hundreds of  
2 officers who had to be specifically trained on the new  
3 orders that Judge Jones gave. They had to do it over  
4 time. They then had to work with the other City  
5 departments to determine who would go in where, and what  
6 they would do.

7 And so that kind of operation doesn't happen  
8 overnight, and it has to have on the ground the  
9 circumstances that can allow them to be successful.

10 **Q. At any time prior to June 20, 2020, do you**  
11 **recall demanding to see from anybody, any department,**  
12 **any executive, a plan to clear out the CHOP?**

13 A. So on a -- again, and I -- and maybe I'm not  
14 being clear on this. From the very first, from June 8th  
15 on, the discussions were centered upon, how do we do the  
16 things that I just talked about, balance those public  
17 interests, but de-escalate the area enough, reduce it in  
18 profile so that we could have a successful operation  
19 that the police would have to participate in and lead.

20 And that, over time, required other departments  
21 to take the lead: Seattle Department of Transportation,  
22 Seattle Public Utilities, the Parks Department, and the  
23 like.

24 And so there was an ongoing discussion of that.  
25 And so yes, on a regular basis, you're asking me, like,

Page 63

1 okay, guys, where are we? When can we get this done?  
2 We would have those conversations. But truly it  
3 required the Seattle Police Department to be at a place  
4 where they felt that they could have that operation  
5 successfully, given what was really happening on the  
6 ground.

7 And that meant de-escalating it, getting it,  
8 you know, in a more -- smaller profile, and having a  
9 place where then Seattle police had sufficient  
10 resources, sufficient training, and sufficient numbers  
11 that they thought they would go in and also train with  
12 Seattle Department of Transportation and others who had  
13 to bring in vehicles and -- and moving equipment and  
14 dozens of Parks employees.

15 All of this was really an extraordinarily  
16 complicated operation, and it took time for them to plan  
17 it, but there was no time that either Chief Best or  
18 myself wasn't thinking about, how do we make sure and  
19 how do we return that area safely to the people and  
20 residents of Capitol Hill.

21 **Q. Prior to June 20th, did you ask for a written**  
22 **plan from any department on how to clear out the CHOP?**

23 A. It would not have been a normal thing for me to  
24 get a written plan. We would have a -- ongoing  
25 discussions and briefings. You would have the

Page 64

1 departments working together, and there's probably  
2 writings that describe -- and emails back and forth  
3 maybe that describe who's doing what when. But it's --  
4 it's not like they would deliver me a, here's our plan  
5 on what we're going to do.

6 So that -- that would not be how we would  
7 normally do things, and it isn't what happened here.  
8 You know, at the end of the day, this could only occur  
9 when the Seattle Police Department felt they could do it  
10 safely, and that required us, as a City, to take a  
11 number of steps to get to that place.

12 (Exhibit No. 2 marked.)

13 BY MR. WEAVER:

14 **Q. Okay. I've dropped another exhibit into the**  
15 **chat, which we've marked as Exhibit 2.**

16 **Go ahead and take a minute, see if you're**  
17 **familiar with it.**

18 A. I am. And this is -- this -- again, this  
19 confirms what I was saying before. Oh, sorry. I'll  
20 wait for the questions.

21 **Q. Okay. So this is an email that you wrote on**  
22 **the morning of June 20, 2020; is that right?**

23 A. That's correct.

24 **Q. Okay. And you sent it to Chief Scoggins and**  
25 **Chief Best; is that right?**

16 (Pages 61 to 64)

Page 69

1 to be briefed on what those plans would be. They would  
2 not typically give me, here's our written protocols.  
3 Those may come at various times. But it was to be a  
4 high-level briefing. Are we ready? What's the --  
5 what's it going to look like? What resources do you  
6 need? When can we do this safely?

7 We knew, even from June 20th, that, you know,  
8 it confirmed that, you know, police coming into the area  
9 could escalate it. So we had to factor in, how do we  
10 make sure that we have a setting that could be as  
11 de-escalated as possible, so that the police could  
12 successfully do what they needed to do.

13 And that took a period of, you know, after  
14 June 20th, and the planning, and -- and the assessment  
15 by the police on when they would have the numbers, what  
16 the plan would be, how they would do it, and how all the  
17 other City departments could come.

18 It really required us, as a City, to take all  
19 those other steps to de-escalate things, see if we get  
20 people to leave voluntarily, as many as possibly we  
21 could, to take the homeless people there and get them  
22 into shelter.

23 Each of those steps had the same goal, and that  
24 goal was really to de-escalate it, to minimize the  
25 number of people there, and to get to a place where we

Page 71

1 part of that operation had to be specially trained on  
2 that order to make sure they knew what the parameters  
3 were. They would have to go off-site and schedule  
4 hundreds of officers on what the operation would look  
5 like, who would do what role.

6 They then had to communicate with Seattle  
7 Department of Transportation as to what equipment they  
8 were going to bring in, how do they remove all barriers,  
9 talk to the Parks Department.

10 We had dozens of Parks people who had to come  
11 in and restore the area. We had to have outreach  
12 workers from our Human Services Department to meet with  
13 the homeless people to try to get them services.

14 So it required an extensive amount of planning.  
15 So they would give me the assessment of here's all the  
16 things we're going to have to do as a City in order to  
17 be successful, in order to balance those competing  
18 interests we've already talked about, ensure the right  
19 to protest and protect their safety, protect the safety  
20 of the residents and businesses around Capitol Hill, and  
21 make sure that we could then also successfully have the  
22 Seattle Police Department lead an operation.

23 And they did, on July 1st, in the early morning  
24 hours, because of the work we'd done before, the police  
25 department was able -- able to go in, in large numbers,

Page 70

1 could have a safe operation led by the Seattle Police  
2 Department, but supported by all those other  
3 departments, so that we could clear that area, restore  
4 the park, and return it for the enjoyment of the whole  
5 community.

6 **Q. So in this briefing on June 20th, what**  
7 **operational plans did you hear about from your executive**  
8 **team?**

9 A. I would have to -- I don't know whether the  
10 briefing went forward that day, but generally what  
11 the -- you know, again, it changed over time, but the --  
12 my recollection is, the general assessment was that  
13 the -- we needed to have a plan where the police felt  
14 they operationally could lead a -- all of the teams, the  
15 City teams, to successfully move people from the area.

16 And that -- I think, if anything, the events of  
17 June 20th and the reception the police got showed that  
18 we had to be really, really thoughtful about that, and  
19 had to have few enough people in the park, reduce the  
20 profile, and have -- for that to be successful.

21 You have to remember too -- I know you know,  
22 Mr. Weaver, but Judge Jones had issued an order  
23 regulating how police could respond to what were  
24 protesters and what tools could be used.

25 So each of the police officers who would be

Page 72

1 and have that very successful operation.

2 **Q. Do you know when the homeless services were**  
3 **first provided to try to get people to move out of the**  
4 **park?**

5 A. I don't -- that area, Cal Anderson Park, has  
6 had homeless services probably for over a decade. And  
7 so there was never a time that the City wasn't in and  
8 around, working in Cal Anderson Park.

9 But obviously, as part of what I said before  
10 is, you know, really to try to de-escalate the  
11 situation, make sure that we got things calmed down, but  
12 then try to get people out voluntarily, for the people  
13 who were truly experiencing homelessness, then to be  
14 able to provide services and shelter for them.

15 And, you know, it was complicated also by the  
16 fact, you know, you asked about the homeless, is, you  
17 know, we're in the middle of the global pandemic. We  
18 had to take all of the existing homeless shelters that  
19 we had, and basically what we call de-intensify them.  
20 So we'd have half as many people because we needed  
21 social distancing.

22 We had no shelter space left in the city of  
23 Seattle. On any night there may be five or ten. So we  
24 had to first create the space and try to work with our  
25 providers to actually start making space so that we

18 (Pages 69 to 72)

Page 77

1 Regularly that would include Chief Best and  
2 Chief Scoggins, but really, really important we thought  
3 that there would be this information going to the public  
4 on where we were, what we were doing, and why we were  
5 doing it.

6 **Q. Why didn't you say, in any of those previous**  
7 **press events, that it was time for people to go home?**

8 A. I'd have to look at all the previous ones. I  
9 may have said things like that, or what our expectations  
10 were. But again, it was an evolutionary process. You  
11 know, you had thousands of people protesting for Black  
12 lives against the police.

13 And it wasn't just here in Seattle. It was in  
14 every major city in America. And we saw in other cities  
15 those protests devolve into nightly violence and  
16 conflict, you know, whether it was Portland. They had  
17 shootings in Louisville.

18 I was talking to mayors in Atlanta, Louisville,  
19 Los Angeles, to compare notes on what were people doing  
20 and how do we address this. And for us in Seattle, what  
21 we really wanted to do, again, was balance those  
22 competing interests.

23 It was important that people protest the -- the  
24 killing of George Floyd. That was part of our national  
25 dialogue. But at the same time, in -- in ensuring that

Page 79

1 can recall. One was shortly after the -- the area was  
2 established, I went and met with protesters and to see  
3 what was happening. I think that was maybe the 8th or  
4 9th.

5 I had a subsequent meeting, and actually there  
6 may have been an additional because I was up there at  
7 least twice, meeting with businesses and residents, and  
8 walking and talking to businesses and residents about  
9 what their concerns were and what the City could do to  
10 address them.

11 And then I had another meeting where I was  
12 twice in one day at the First AME Church there, which  
13 the first meeting was with a number of Black clergy  
14 to -- to get their assistance and help and hear their  
15 views on how we could move forward as a City on a range  
16 of issues, but including what was happening right on  
17 their doorstep.

18 And then later that day, with some of those  
19 Black ministers, met with some of the people who  
20 identified themselves as -- as protest leaders, to see  
21 if we could get them to get people to go home. And so  
22 those were the official meetings.

23 And then I went unofficially a couple times. I  
24 just rode my bike up there, and -- and looked around.

25 **Q. On the -- on the unofficial visits where you**

Page 78

1 right to protest, we also had to be realistic about how  
2 do we make sure that we can provide for the public  
3 safety of those protesters, for the businesses and  
4 residents, and for all the other residents of Seattle or  
5 other places that may come there.

6 At the same time, we're -- we're, you know,  
7 looking out for the whole city in the middle of a global  
8 pandemic. And so at every step of the way, we were  
9 trying to adjust what we're saying, and I was trying to  
10 address in my press statements where -- where we were at  
11 that moment in time.

12 Once we got to the point that the Seattle  
13 Police Department thought they knew what they needed to  
14 be successful, that meant we needed to have fewer  
15 people. So we made a concerted effort to try to reduce  
16 the profile and the number of people in and around  
17 Capitol Hill so we could be successful.

18 **Q. How many times did you personally visit CHOP?**

19 A. If -- between June 8th and July 1st, I think I  
20 was there maybe four or -- I think four times. It might  
21 have been five.

22 **Q. How many of those were what I'll call official**  
23 **visits, and how many of those were visits that you made**  
24 **in a disguise?**

25 A. I made, I think, three official visits that I

Page 80

1 **rode your bike up there, do you recall when those visits**  
2 **were made?**

3 A. I don't recall the exact dates of them, but  
4 they obviously were made in that time frame.

5 **Q. What did you do on those unofficial visits?**

6 A. I just rode my bike up and then walked around  
7 the area to see what was happening. You know, when I --  
8 when I come in an official capacity, it -- it, one,  
9 people respond differently, and -- because you're the  
10 mayor.

11 It also requires that I have security with me,  
12 which are police officers, which can be a complicating  
13 factor, particularly during these events. And so when I  
14 went by myself, I was able to, you know, not have that,  
15 and just see for myself what was happening.

16 **Q. So what time of day did you go on your**  
17 **unofficial visits?**

18 A. I think it was late afternoon, early evening.

19 **Q. And what did you see while you were there?**

20 A. I saw -- you know, that's a broad question. I  
21 rode my bike around all of the parts, went in and out of  
22 Cal Anderson, went in a couple of businesses, and -- and  
23 so I saw a lot of things.

24 **Q. How many tents did you see in Cal Anderson Park**  
25 **on any of your visits?**

20 (Pages 77 to 80)



Page 101

1 this ever-increasing conflict between police and  
2 protesters. And at the same time, the Seattle Police  
3 Department is under a consent decree, and we know the  
4 federal judge has questions about it because the monitor  
5 is asking us questions about it. And so we had to be  
6 thinking about what can we do to change those tactics.

7 And so Chief Best and I, on a regular basis --  
8 she was looking at operationally how does she accomplish  
9 what she needs to do, at the same time kind of  
10 de-escalate things.

11 And so they would change how many people they  
12 had at the line, how far away from the protesters, what  
13 kind of barriers they were using. None of those things  
14 were successful. And by the 7th, by the time it came  
15 again, that was probably one of the highest levels of  
16 escalation.

17 And again, tear gas had to be deployed, but the  
18 decision was made is, we've got to try something new  
19 because we are now getting to the point where, you know,  
20 it is -- it is degrading the relationship between -- the  
21 public trust between the police and not just protesters,  
22 but citywide. It's depleting the officers themselves.  
23 And we had to try a different approach.

24 **Q. Among the things that were decided on as a new**  
25 **approach, did that include the mayor's office directing**

Page 102

1 **the removal of ammunition and evidence from the East**  
2 **Precinct on June 8th?**

3 A. No, not at all. In fact, once the decision --  
4 once we had the discussion -- and in the discussions  
5 that people had, we had previous to then was that, if  
6 there was -- if the decision was made by the department  
7 that they would leave the precinct at all, or were  
8 forced to leave the precinct because it became overrun,  
9 what would be the most safe course?

10 And obviously you would have to remove a range  
11 of things: guns, ammunition, confidential information,  
12 information related to sources and informants, personal  
13 property, computers, and the like.

14 And so there was, you know, the -- again, it's  
15 kind of like -- not to the same extent because clearing  
16 the CHOP was much, much more complicated and required,  
17 you know, hundreds of officers to be trained, and City  
18 workers.

19 But the decision on -- when the police  
20 department made the decision that they would temporarily  
21 leave the precinct, it required them to take other  
22 actions, including the removal of sensitive information  
23 and things like guns and ammunition.

24 (Exhibit No. 3 marked.)

25 ////

Page 103

1 BY MR. WEAVER:

2 **Q. Okay. I'd like you to look at Exhibit 3, which**  
3 **I just dropped into the chat. This is an email. I know**  
4 **you're not copied on it, but it's dated June 8, 2020, at**  
5 **10:23 in the morning, from Casey Sixkiller, saying, "I**  
6 **want to see a plan to remove firearms, ammunition and**  
7 **all evidence from the East Precinct today. That plan**  
8 **should be capable of being fully executed by 5:00 p.m.**  
9 **today."**

10 **Do you see that?**

11 A. I do see that.

12 **Q. Were you involved in -- did you discuss with**  
13 **Mr. Sixkiller getting a plan from the SPD to remove**  
14 **firearm, ammunitions, and evidence from the East**  
15 **Precinct on June 8, 2020?**

16 A. No, I don't recall talking to Mr. Sixkiller  
17 about that. And I -- this is the first I'm seeing this.  
18 And I don't know -- you'd have to ask him kind of what  
19 led to this.

20 But again, I think it's important to note that  
21 the day before, on the 7th, we had a discussion with  
22 Chief Best and with others on kind of what the -- what  
23 the options were with regards to changing the dynamic,  
24 including the option of either removing the barriers or  
25 the like.

Page 104

1 One of the -- in that discussion, my  
2 recollection is, is that someone in the command staff  
3 with the chief said, you know, if we do that, then we  
4 have to make sure that these other things happen. And  
5 that would include removing all those things we talked  
6 about before.

7 Obviously, if you're going to -- if you think  
8 either the precinct could burn or you think the  
9 protesters might overrun it, you can't have it have  
10 guns, ammunition, confidential information, and the  
11 like.

12 And remember, you know, place yourself in time.  
13 It's hard to do. But we saw a police precinct burn in  
14 Minneapolis. We saw other police precincts, you know,  
15 be overrun or challenged.

16 And so that was something we actually had to  
17 plan for. And my recollection is, is that the police  
18 had raised this as something that they would have to do  
19 in order to make sure that the precinct was secure.

20 And so I don't know if this is what  
21 Mr. Sixkiller was doing, but it would have been my  
22 expectation that in sharing their full plan with him or  
23 our office, that they would have included that in their  
24 planning.

25 **Q. Do you recall in those discussions, either on**

Page 105

**1 June 7th or June 8th, discussions about whether the**  
**2 police should evacuate, either partially or entirely**  
**3 personnel from the East Precinct?**

**4 A.** So on the 7th, we had a discussion related to  
**5 the precinct in my office with Chief Best and command**  
**6 staff, where we were looking at what certain options**  
**7 might be, but it was also for us to be briefed by the**  
**8 FBI on what the threat to the East Precinct was or could**  
**9 be.**

10 And in that discussion, there was, you know --  
 11 there was discussions about if -- again, if the police  
 12 had to leave the precinct, as they did in some other  
 13 cities, or if the precinct, you know, was targeted with  
 14 fire or other things, what would have to happen.

15 And one of the things that was mentioned in  
 16 that is obviously, if you've got a police station that  
 17 has, you know, guns and ammunition and confidential  
 18 information and the like, you have to have a plan to  
 19 remove that, if you think that -- that any of those  
 20 incidents could occur and the police have to be out of  
 21 the precinct.

22 **Q. Okay. Were there discussions on June 7th or**  
 23 **June 8th that you were involved in about whether to --**  
 24 **the police should evacuate personnel, either entirely or**  
 25 **in part from the East Precinct, in addition to other --**

Page 106

**1 in addition to materials?**

2 **A.** Yeah, I think if you're talking about when the  
 3 actual decisions were made and June 8th to -- to  
 4 temporarily leave the precinct, I was not involved in  
 5 the discussions that occurred that day.

6 I got periodic reports on where we were, but it  
 7 was my understanding that there was -- that the plan  
 8 evolved over time, and that the original plan was  
 9 actually to keep personnel in place and take some other  
 10 steps to protect the personnel.

11 But when that wasn't -- when the police  
 12 commanders who were there made the decision that they  
 13 couldn't do that and adequately protect the officers,  
 14 they made the decision that they would temporarily  
 15 leave, stage nearby so they could respond, with the  
 16 intent of returning, you know, after the protests had  
 17 dissipated, which was usually about, you know, 2:00,  
 18 3:00 in the morning most of the evenings.

19 **Q. So were you -- were you involved in any**  
 20 **discussions about whether to evacuate personnel from the**  
 21 **East Precinct on June 8th?**

22 **A.** No, I was not. I -- I -- I got periodic  
 23 reports, but there was a meeting that was had between  
 24 Chief Best and the command staff and some people in my  
 25 staff and other departments at the Emergency Operations

Page 107

1 Center.

2 **Q. When did you first learn that the Seattle**  
 3 **Police Department had, in fact, evacuated personnel from**  
 4 **the East Precinct?**

5 **A.** I did not learn that they had evacuated  
 6 everyone until later that evening, after it had  
 7 occurred. There was an interim -- as I understood it,  
 8 the plan had been that once the -- once the decision --  
 9 the people -- to remove the barriers, then people wanted  
 10 to protect against some of those cascading impacts that  
 11 we just discussed.

12 And so the police department's plan, as I  
 13 understood it, was to remove the most confidential  
 14 information, weapons and the like, and -- from the  
 15 precinct, that they were going to build a fence around  
 16 the precinct that would be outside the sidewalk area to  
 17 have a perimeter protection around the precinct, that  
 18 they were going to foam the building down with fire foam  
 19 to prevent against the risk of fire, and that they then  
 20 did outreach also to the adjacent buildings to make sure  
 21 that they were prepared.

22 It's my understanding -- again, I was not part  
 23 of the discussions -- that once they went to do that,  
 24 they determined they could not erect the fence where  
 25 they intended because of -- I don't know what the issues

Page 108

1 were, but they couldn't, and instead had to attach  
 2 basically the fence directly to the building, which then  
 3 impacted the ability to get in and out of the building  
 4 safely.

5 They also determined they couldn't foam the  
 6 building down because the foam didn't work that day.  
 7 And as I now understand it, and did not at the time, the  
 8 police commander made the decision that, if there was a  
 9 risk to the personnel in the building, and he didn't  
 10 think that they could assure that they could themselves  
 11 evacuate safely should something happen, it would be  
 12 better to move them out of the building temporarily,  
 13 stage them nearby so they could respond to any police  
 14 need, and then come back into the building, you know,  
 15 once the protests dissipated.

16 **Q. When you found out on the evening of June 8th**  
 17 **the police department had evacuated personnel from the**  
 18 **East Precinct, were you concerned about long-term**  
 19 **difficulties in getting the police back into the**  
 20 **precinct?**

21 **A.** On the 8th, no. And again, it was -- you know,  
 22 there was a period of time in there that we thought that  
 23 they had left kind of a skeleton crew. When I learned  
 24 that they had made the decision to -- to remove everyone  
 25 there temporarily, what I was also told was, the plan

27 (Pages 105 to 108)

Page 161

1 out of that area, out of the Capitol Hill and Cal  
2 Anderson area, without the assistance of the police  
3 department.

4 In order for the police department to be able  
5 to assist in that, a couple different things had to  
6 happen. First, the reality was, these protests were  
7 against the police, directly against the police, and  
8 police presence in that area led to escalation of events  
9 and made it more volatile, not less volatile. So we had  
10 to reduce the profile as much as we could, and the  
11 number of people, until there was a time when Seattle  
12 police could lead the event.

13 Second, we need to de-escalate what was  
14 happening in there, period, and get some kind of statis  
15 involved, and then move people. In a sense maintain,  
16 you know, the s-t-a-t-i-s, not u-s.

17 So -- so this reflects our reality of, okay, we  
18 can't do this overnight. It is incredibly dynamic and  
19 complicated. And even when we got to the point that we  
20 did do it, you know, Mr. Weaver, I can't tell you enough  
21 how complicated that was to marshal that many police  
22 officers without the benefit that we normally would have  
23 of mutual aid of other police departments, because other  
24 police departments did not want to come assist, having  
25 to take those people off -- off their regular rotation

Page 162

1 to get them trained on Judge Jones' order and what their  
2 plan would be, to have the Seattle Department of  
3 Transportation be ready with heavy machinery and  
4 employees, and get them scheduled on a shift, to have  
5 Parks employees the same, all in the middle of a global  
6 pandemic, when our City workers were already stretched  
7 really thin.

8 And so this was something that took  
9 extraordinary amount of planning and preparation. And  
10 leading up to that, before we could even begin that  
11 operation, we had to have a place that would be  
12 successful for the police to operate.

13 And that meant trying to de-escalate, have as  
14 few people there as possible, and show that we, as the  
15 City, were listening to the protests so that they  
16 wouldn't escalate for other reasons.

17 And again, against the backdrop of -- I was  
18 really very fearful, as mayor, that the posture that the  
19 president was taking during this period of time, and  
20 threatening to send in troops and agents itself was  
21 going to escalate the situation.

22 So this -- this took an extraordinary amount of  
23 coordination, and I think this document reflects from  
24 the earliest days, we were really coordinating across  
25 departments to see how we could get through each step.

Page 163

1 **Q. Did I not hear you say earlier -- and correct**  
2 **me if I'm wrong -- that you were concerned about sending**  
3 **the message to people that you were going to clear them**  
4 **out, and you wanted to make sure you weren't sending**  
5 **that message because you were worried what their**  
6 **reaction might be?**

7 A. No, that's -- that's not what I said at all. I  
8 said that the -- the reality was -- you asked me about  
9 whether the Seattle Department of Transportation was  
10 getting pushback from protesters, and the answer to that  
11 was yes.

12 And part of that pushback from those actions  
13 was them thinking this was the prelude to pushing  
14 everyone out, and that might escalate. So we had to be  
15 very cautious to make sure that each step we were  
16 taking, we were achieving our goals, and at the same  
17 time not either escalating it for the people who were  
18 there, or, frankly, calling more people to come, which  
19 was, you know, the stated purpose of other people who  
20 were trying to get more people to the area. We were  
21 trying to do the opposite.

22 **Q. Okay. Can you -- can you point -- can you tell**  
23 **me, if you recall, any specific statement you made prior**  
24 **to June 22, 2020, to the public in any interview,**  
25 **anything, where you indicated that you wanted people to**

Page 164

1 **move out and that CHOP needed to have a definite ending?**

2 MR. HARRIGAN: Objection. Multiple and  
3 vague.

4 A. I don't think it's really possible for me to go  
5 through every single statement, but I will tell you, I  
6 think that my statements were actually very consistent,  
7 and the actions of the City were very consistent, if you  
8 look.

9 I had a number of community meetings with  
10 community-based organizations, including like the Black  
11 clergy and others, to see if they could help us  
12 intercede to get people to leave. That was over the  
13 whole duration. We were trying to find different  
14 approaches throughout.

15 So I -- you know, I -- I do believe that we  
16 were very consistent in both what I was saying and also  
17 what the City was doing to really do what I said, which  
18 is, look, we've talked about how challenging that  
19 operation was to plan. It was very successful, and I  
20 think it is proof that the work we did before that  
21 actually gave us the ability to do what was needed to be  
22 done.

(Exhibit Nos. 10-11 marked.)

23 BY MR. WEAVER:

24 **Q. Okay. Could you look at Exhibit 9? It's**  
25

41 (Pages 161 to 164)



Page 181

1 lived out of the state, but I grew up in the area and  
2 then returned.

3 **Q. I mean, are you aware of any other time that a**  
4 **portion of Capitol Hill was declared an autonomous zone**  
5 **by a group of protesters?**

6 A. No. But there's been extended periods of time  
7 where Capitol Hill was the subject of long-term protest  
8 activity and marches. And as I said, other areas of the  
9 city -- we had two areas of the city occupied for a very  
10 long period of time, Beacon Hill School, and -- which is  
11 now Daybreak Star, which was then Fort Lawton. And so  
12 it is not out of the experience of our city to have  
13 those protests over a period of time.

14 You know, we had the Occupy protests in the --  
15 it was when I was U.S. attorney, because they occupied  
16 the street behind my office for many, many, many, many  
17 days.

18 And so there's been various times in our city  
19 and other cities where there are protests that become  
20 long-term protests. At the beginning of this, you know,  
21 we did not kind of know what the future would be because  
22 we had to be in a position, again, to be where before we  
23 could deal with these protesters safely and balancing  
24 the interest, respecting the absolute right, First  
25 Amendment right, to protest against the public safety

Page 183

1 come dominate the streets. And so that had a  
2 significant chance of escalating things in our city and  
3 in and around Capitol Hill.

4 So the first part of the interview was, look,  
5 we know that this is wrong. We know we have to  
6 de-escalate. We believe, as a City, that you can  
7 balance the interests that we've talked about here  
8 today, that you can have First Amendment protests, and  
9 at the same time protect public safety.

10 And I think the answer that you cite, the  
11 summer of love, my next sentence says, but, Chris, it's  
12 really important. We know we need to protect public  
13 safety, or something like that.

14 And so it was my -- it was -- he asked when is  
15 it going to happen. I think my response was, I don't  
16 know. And then I used the inartful phrase, you know,  
17 maybe we'll have a summer of love, but that was  
18 trying -- again, it was a really bad and inartful way to  
19 try to say the depiction of what's happening isn't  
20 accurate, and that we know -- because I think it's the  
21 next sentence -- I mean, you've probably read the  
22 transcript and have it, but I think I immediately pivot  
23 to say, but seriously, Chris, we know that we've got to  
24 balance public safety.

25 ////

Page 182

1 and public health issues at the time for -- for the  
2 protesters, for the residents, for the visitors, for the  
3 businesses.

4 So all of those things we knew we were  
5 navigating, but at this moment in time, I thought it was  
6 important that we not lose sight that what was being  
7 depicted nationally just wasn't accurate, nor was this  
8 something that was necessarily outside the ken of what  
9 we've dealt with as a city before.

10 **Q. Do you recall an interview with Chris Cuomo on**  
11 **CNN on June 12, 2020?**

12 A. I do.

13 **Q. Do you recall that he asked you how long CHOP**  
14 **would be allowed to persist? He may have said CHAZ at**  
15 **that point; I don't remember.**

16 **And your response was, "We could have a summer**  
17 **of love"? Do you recall that?**

18 MR. HARRIGAN: Object to the form.

19 A. Yeah, I think -- I think my answer was actually  
20 a little different than that, and -- and that's not the  
21 complete answer. And again, I think, if you look at  
22 that whole interview, most of the interview was about  
23 the fact that Donald Trump said he was going to send the  
24 military into Seattle, and that we -- if we didn't take  
25 care of it, he was going to take care of it and he would

Page 184

1 BY MR. WEAVER:

2 **Q. So you do remember referring to the summer of**  
3 **love, or the potential for summer of love in Seattle?**

4 A. Again, I think my answer was, it's a little  
5 more complete that -- that he asked how long is it going  
6 to happen? I said I don't know. I then used the really  
7 inartful phrase, "could have a summer of love," to try  
8 to depict that it's not going to be what the president  
9 has represented it as, is -- is anarchy and fires and  
10 the like, but then also immediately said, but we also  
11 know we have these duties with regard to public safety  
12 that we take very seriously.

13 **Q. So do you believe in the totality of your**  
14 **comments during that interview you conveyed to the**  
15 **public, that you were going to move protesters out soon?**

16 MR. HARRIGAN: Object to the form.

17 A. I think if you look at -- again, we were not,  
18 at that juncture, able to say we could do that because  
19 the truth was, we could not do that until the Seattle  
20 Police Department could lead an operation. Because we  
21 couldn't have an operation that successfully would reach  
22 that goal until they could.

23 And again, you know, until this time, as again,  
24 **it's a phased approach, we knew we had to try to**  
25 **de-escalate and calm things down. We then had to try to**

Page 185

shrink the number of people who were there at the same time that the Seattle Police Department had to come up with a plan that they thought could work, because we knew from experience, watching that when the police entered that area, it could escalate things immediately because they were protests against the police.

And we had just finished -- remember, this came about because of a nightly skirmish at that police line between police and protesters. And so we had to be realistic, and I had to really rely on the judgments of Chief Best and her command staff on how and when they could be ready. Because it also involves so many other departments. So no, at that time, I could not say we would move people out quickly because we had to first make sure we could do that.

BY MR. WEAVER:

**Q. Do you recall giving any indication, in that interview or any other interview during that first week, week and a half of CHOP, that there would be a deadline by which the area would be cleared out?**

MR. HARRIGAN: Objection to the form.

A. No. Because it -- and I think, as we've said here today, we couldn't set a deadline. I think it's really important that, number one, if you set a deadline and say, everyone out by X date or we're going to push

Page 187

At the same time the Seattle Police Department has to come up with a plan that will work, and we have to rally all those other departments around it.

BY MR. WEAVER:

**Q. As of -- when do you understand the Seattle Police Department came up with its plan to move people out of the area?**

A. So the final plan was shortly before July 1. I think one of those other exhibits you showed me, you know, the first briefing they were giving me was right around June 20th, which indicates, you know, they had to be working for days and days before that.

And so that -- that was the first -- and it was iterative because we had to both assess not only what the department could do, but it changed. It changed, one, because Judge Jones entered his order on what -- what tools and procedures you could use if there were protesters, and so they had to train on what the contours of that order were.

You had to take people off their shifts in order to train them, and then they had to then -- when they came up with the actual operational plan, it's my understanding -- I didn't participate in it. You know, they actually go off-site and plan who's the first line? Who's the second line? What do the next ones do?

Page 186

you out, experience would tell us, you're going to invite more people to come because that is typically what happens. It's what happened in Portland night after night after night during the same period of time.

And so what you had to do, we thought, using our best judgment as a City, is to take a phased approach that was based on the reality of the circumstances.

So in the beginning, when the protesters stayed in the Capitol Hill area, we first had to make sure that we were protecting the safety of the protesters, balancing the public health interest, also protecting the public safety and benefits for the residents and businesses, while we were thinking, how do we, you know, change the profile?

So one of the first things -- one of the other exhibits you showed me, you know, SDOT trying to go in and remove all the barriers we could, the bike racks, the this, the that, so that we could reduce the ability of those to be -- so again, a really phased approach, make sure that we could de-escalate it as much as possible, really be attentive to the public health and safety needs, and then work with as many community-based organizations and City people as we could, to get in there to try to address and get people out of the park.

Page 188

And then they have to coordinate with the Seattle Department of Transportation to bring in dozens of trucks and employees, the Parks Department, the Seattle Public Utilities Department.

You know, it was a monumental undertaking that was -- you know, at various stages, they were planning the various contours of it, and then they had to look at it to say, will this work? Will this not work? How do we address this, how do we address that.

**Q. You know, I think you've made clear in more than one -- more than one answer that it was complicated.**

**When do you recall first hearing a plan from the Seattle Police Department as to how they were going to go ahead and move people out? If you don't remember, you can say you don't remember.**

A. I don't remember the first day that there was a plan, but from the very beginning, Seattle Police Department was assessing what was happening on the ground and whether they thought it would be safe for them to go into the East Precinct. And that was connected with obviously you can't return to the East Precinct unless you have a plan for the area.

And so those -- those discussions literally started on the 8th, you know, not in great detail, but

47 (Pages 185 to 188)

Hunters Capital, LLC v. City of Seattle

Mayor Jenny A. Durkan

Page 273

4:55 p.m.

(Deposition concluded at 4:55 p.m.)  
 (Reading and signing was requested  
 pursuant to FRCP Rule 30(e).)

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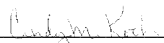
Page 274

## C E R T I F I C A T E

STATE OF WASHINGTON  
 COUNTY OF PIERCE

I, Cindy M. Koch, a Certified Court Reporter in  
 and for the State of Washington, do hereby certify that  
 the foregoing transcript of the deposition of Jenny A.  
 Durkan, having been duly sworn, on December 8, 2021, is  
 true and accurate to the best of my knowledge, skill and  
 ability.

IN WITNESS WHEREOF, I have hereunto set my hand  
 and seal this 29th day of December, 2021.

  
 CINDY M. KOCH, CCR, RPR, CRR



My commission expires:  
 JUNE 9, 2022

69 (Pages 273 to 274)